

Public Safety

Final Agenda

Louisville Metro Council

Meeting Date: 10/04/2006

Meeting Time: 4:00 PM

Location: Third Floor, City Hall

Chairs: Ellen Call (26)

Members: Leonard Watkins (1)
Mary C. Woolridge (3)
George Melton (15)
Kelly Downard (16)
James Peden (23)
Madonna Flood (24)
Ellen Call (26)

Special Items for Discussion: Dr. Richmond from Emergency Management Services - Discussion regarding EMS Issues.

[O-235-12-05](#) AN ORDINANCE PROHIBITING CHILD SEX OFFENDERS FROM BEING IN OR RESIDING NEAR PUBLIC PARKS AND FACILITIES PROVIDING PROGRAMS OR SERVICES DIRECTED AT PERSONS UNDER THE AGE OF 18. (re-introduced on 6/22/2006) (Tabled)

[Sponsor\(s\)](#) [Public Safety](#)

ORDINANCE NO. _____, SERIES 2006

AN ORDINANCE PROHIBITING CHILD SEX OFFENDERS FROM BEING IN OR RESIDING NEAR PUBLIC PARKS AND FACILITIES PROVIDING PROGRAMS OR SERVICES DIRECTED AT PERSONS UNDER THE AGE OF 18.

SPONSOR: Councilman David Tandy, District 4

WHEREAS, KRS 17.495 prohibits child sex offenders from residing within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, or licensed day care facility; and

WHEREAS, the Metro Council would like to extend this residency restriction currently placed on child sex offenders by KRS 17.495 to playgrounds and facilities providing programs or services exclusively directed toward persons under 18 years of age; and

WHEREAS, the Metro Council finds that sex offenders are extremely likely to use physical violence and to repeat their offenses, have many more victims than are ever reported, and are prosecuted for only a fraction of their crimes; and

WHEREAS, the Metro Council believes it is in Metro Government's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of Metro Louisville by creating areas around locations where children regularly congregate in concentrated numbers wherein child sex offenders are prohibited from being there and/or residing near to.

NOW THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT ("COUNCIL") AS FOLLOWS:

SECTION I: DEFINITIONS.

(1) **Child Sex Offender** means any person who:

(A) has been charged under Kentucky law, or any substantially similar federal law or law of another state, with a criminal offense against a victim who is a minor, as defined in subsection (2) of this Section I, or the attempt to commit such an offense; and

(B) is convicted of such offense or an attempt to commit such offense; or

(C) is found not guilty by reason of insanity of such offense or an attempt to commit such offense.

Convictions that result from or are connected with the same act, or result from offenses committed at the same time, shall be counted for the purpose of this subsection (1) as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this subsection (1).

(2) **Criminal Offense Against A Victim Who Is A Minor** means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:

(A) Kidnapping, as set forth in KRS 509.040, except by a parent;

(B) Unlawful confinement, as set forth in KRS 509.020, except by a parent;

(C) Sex crime;

(D) Promoting a sexual performance of a minor, as set forth in KRS 531.320;

(E) Promoting prostitution, as set forth in KRS 529.030, 529.040, and 529.050, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);

(F) Use of a minor in a sexual performance, as set forth in KRS 531.310;

(G) Sexual abuse, as set forth in KRS 510.120 and 510.130;

(H) Any attempt to commit any of the offenses described in paragraphs (A) to (G) of this subsection (2); and

(I) Solicitation to commit any of the offenses described in paragraphs (A) to (G) of this subsection (2).

(2) **Facility Providing Programs or Services Directed Towards Persons Under the Age of 18** means any facility in Metro Louisville providing programs or services exclusively directed toward persons under the age of 18.

(3) **Loiter** means standing, sitting idly, whether or not the person is in a vehicle or remaining in or around public park property.

(4) **Metro Louisville** means the corporate limits of Jefferson County, Kentucky.

(5) **Playground** means a piece of land in Metro Louisville owned or controlled by the Commonwealth of Kentucky, Louisville/Jefferson County Metro Government, Louisville Waterfront Development Corporation, or any city within Metro Louisville for use solely or primarily for children's recreation, including, but not limited to, playground equipment and public swimming, wading or fountain pools.

(6) **Public Park** means a park, forest preserve, or conservation area in Metro Louisville under the jurisdiction or control of the Commonwealth of Kentucky, Louisville/Jefferson County Metro Government, Louisville Waterfront Development Corporation or any city located within Metro Louisville.

(7) **Sex Offense** means any of the following offenses:

(A) A felony offense defined in Chapter 510, 530.020, 530.064, 531.310 or 531.320;

(B) A felony attempt to commit a felony offense specified in paragraph (A) of this subsection (7); or

(C) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is

similar to a felony offense specified in paragraph (A) of this subsection (7).

SECTION II: PARKS AND OTHER PLACES WHERE CHILD SEX OFFENDERS MAY NOT BE OR RESIDE.

(a) It is unlawful for a child sex offender to be present in any public park building or on real property comprising any public park when persons under the age of 18 are present in the building or on the grounds, unless the offender is a parent or guardian of a person under 18 years of age present in the building or on the grounds.

(b) It is unlawful for a child sex offender to loiter on a public way or sidewalk within 1,000 feet of a public park building or real property comprising any public park while persons under the age of 18 are present in the building or on the grounds, unless the offender is a parent or guardian of a person under 18 years of age present in the building or on the grounds.

(c) It is unlawful for a child sex offender to reside within 1,000 feet of a playground or a facility providing programs or services exclusively directed toward persons under 18 years of age. Nothing in this subsection (c) prohibits a child sex offender from residing within 1,000 feet of a playground or a facility providing programs or services exclusively directed toward persons under 18 years of age if the property is owned by the child sex offender and was purchased before the effective date of this ordinance.

(d) It is unlawful for a child sex offender to operate, manage, be employed by, volunteer at, be associated with, or be present at any facility providing programs

or services exclusively directed towards persons under the age of 18. This does not prohibit a child sex offender from owning the real property upon which the programs or services are offered, provided the child sex offender refrains from being present on the premises for the hours during which the programs or services are being offered.

(e) For purposes of determining the minimum distance separation in subsections (b) and (c), above, the measurement shall be taken in a straight line from where the child sex offender is loitering or from the outer property line of the place of residence of the child sex offender to the nearest outer property line of the public park, playground or facility providing programs or services exclusively directed toward persons under 18 years of age, as the case may be.

SECTION III: PENALTY.

Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$500 or imprisonment not to exceed 365 days, or both, for each offense. Each day that a violation occurs shall constitute a separate offense.

SECTION IV: EFFECTIVE DATE.

This Ordinance shall take effect upon its passage and approval.

Kathleen J. Herron
Metro Council Clerk

Kevin J. Kramer
President of the Council

Jerry E. Abramson
Mayor

Approved: _____
Date

APPROVED AS TO FORM AND LEGALITY:

Irv Maze
Jefferson County Attorney

BY: _____
Draft 3 epm 12/02/05 11:05 a.m.